

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOTICE OF SUIT

English Kingdom of King Zungu, LLC
Timothy Oliphant

15 CV 9733

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION

New York County, District Attorney office
ATTN: Director of Human Resources
1 Hogan Pl. NY, NY 10013 Cyrus R Vance Jr.

Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the space
provided, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of names.
Typically, the company or organization named in your charge
to the Equal Employment Opportunity Commission should be
named as a defendant. Addresses should not be included here.)

This action is brought for discrimination in employment pursuant to: (check only those that apply)

_____ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).
NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

_____ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.
NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.
NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

_____ New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

_____ New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Timothy Oliphant
 Street Address 383 Bowers Street 4380 Bronx Blvd, (20)
 County, City New York, New York Bronx, NY 10466
 State & Zip Code New York, 10003
 Telephone Number (505) 710-4821

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name District Attorney Office of the County of New York
 Street Address One Hogan Place
 County, City New York, New York
 State & Zip Code New York 10013
 Telephone Number _____

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer New York County District Attorney Office
 Street Address One Hogan Place
 County, City New York, New York 10013
 State & Zip Code New York 10013
 Telephone Number _____

II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

☒ Failure to hire me.
☐ Termination of my employment.
☐ Failure to promote me.
☐ Failure to accommodate my disability.
☐ Unequal terms and conditions of my employment.

_____ Retaliation.

_____ Other acts (specify): _____.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: Feb 12, 2015.
Date(s)

C. I believe that defendant(s) (check one):

☒ is still committing these acts against me.

_____ is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☐ race _____ ☐ color _____

☐ gender/sex _____ ☐ religion _____

☐ national origin _____

☐ age. My date of birth is _____ (Give your date of birth only if you are asserting a claim of age discrimination.)

☒ disability or perceived disability, Education, disorder (mental) (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: _____ (Date).

B. The Equal Employment Opportunity Commission (*check one*):

_____ has not issued a Notice of Right to Sue letter.

_____ issued a Notice of Right to Sue letter, which I received on Oct 2, 2015 (Date).

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

☒ 60 days or more have elapsed.

_____ less than 60 days have elapsed.

IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: _____

(Describe relief sought, including amount of damages, if any, and the basis for such relief.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14 day of December, 2015.

Signature of Plaintiff

Address

Telephone Number

Fax Number (if you have one)

Justly Diphant
4380 Bronx Blvd Bronx 20
333 Bowery Street @
New York, New York
Bronx 10466-1003
(505) 710-4821

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Timothy Oliphant
333 Bowery
New York, NY 10003

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2015-01758

Holly M. Woodyard,
State & Local Program Manager

(212) 336-3643

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

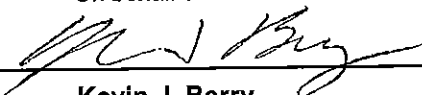
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Kevin J. Berry,
District Director

October 2, 2015

(Date Mailed)

Enclosures(s)

cc: ATTN: Director of Human Resources
NEW YORK COUNTY, DISTRICT ATTORNEY
1 Hogan Place
New York, NY 10013

FACTS ABOUT FILING AN EMPLOYMENT DISCRIMINATION SUIT IN FEDERAL COURT IN NEW YORK STATE

You have received a document which is the final determination or other final action of the Commission. This ends our handling of your charge. The Commission's action is effective upon receipt. Now, you must decide whether you want to file a private lawsuit in court. This fact sheet answers several commonly asked questions about filing a lawsuit.

WHERE SHOULD I FILE MY LAWSUIT?

Federal District Courts have strict rules concerning where you may file a suit. You may file a lawsuit against the respondent (employer, union, or employment agency) named in your charge. The appropriate court is the district court which covers either the county where the respondent is located or the county where the alleged act of discrimination occurred. New York State has four federal districts:

- The United States District Court for the Southern District of New York is located at 500 Pearl Street in Manhattan. It covers the counties of Bronx, Dutchess, New York (Manhattan), Orange, Putnam, Rockland, Sullivan, and Westchester. (212) 805-0136 <http://www.nysd.uscourts.gov>
- The United States District Court for the Eastern District of New York is located at 225 Cadman Plaza in Brooklyn and covers the counties of Kings (Brooklyn), Nassau, Queens, Richmond (Staten Island), and Suffolk. (718) 613-2600 <http://www.nyed.uscourts.gov>
- The United States District Court for the Western District of New York is located at 68 Court Street in Buffalo. It covers the counties of Allegheny, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates. (716) 551-4211 <http://www.nywd.uscourts.gov>
- The United States District Court for the Northern District of New York is located at 100 South Clinton Street in Syracuse and covers the counties of Albany, Broome, Cayuga, Chanango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onandaga, Oswego, Ostego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington. This District Courts *Pro Se* Attorney has offices at 10 Broad Street in Utica New York. (315) 234-8500 <http://www.nynd.uscourts.gov>

WHEN MUST I FILE MY LAWSUIT?

Your private lawsuit must be filed in U.S. District Court within 90 days of the date you receive the enclosed final action. Once this 90 day period is over, unless you have filed suit, you will have lost your right to sue.

(Over)

PLAINTIFF

UN HEADQUARTER
 "MS. ANTIGONI AXENIDOU"
 TREATY SECTION
 ROOM #3-3675
 NEW YORK, NY 10017

TIMOTHY OLIPHANT
 4380 BRONX BOULEVARD
 BRONX, NY 10466
 505-710-4821

CENTRAL INTELLIGENCE POLICE
 "MICHEAL MORELL"
 512-772-2076
 OR
 OFFICE OF PUBLIC AFFAIRS
 WASHINGTON, D.C.
 703-204-3800

IRS TAX ADVOCATE
 290 BROADWAY 5TH FLOOR
 NEW YORK, NY

US EXPORT
 290 BROADWAY 9TH FLOOR
 NEW YORK, NY

DEPARTMENT OF CONSUMER AFFAIRS
 "CHAVON HUNTER"
 42 BROADWAY 9TH FLOOR
 NEW YORK, NY 10004
 212-436-0339

MENTAL HYGIENE LEGAL SERVICE
 40 STEUBEN STREET #501
 ALBANY, NY 12207
 518-474-4453

FBI - FOIA

James B. Comey
 935 Pennsylvania
 Avenue NW
 Washington DC 20535
 (202) 324-3000
 (202) 278-2000

National Center for Disaster
 relief

Baton Rouge, LA 70821-4409
 (866) 720-5721

Andrew P. Napolitano
 1211 Avenue of the Americas
 2nd floor
 New York, NY 10036
 (212) 301-3000
 (570) 338-4265

~~James B. Comey~~

Lobby House Ghana
 P.O. Box GPO 78
 233-244-285-058
 233 277 203 046
 233-302 432 247
 "Robert Mensah"

ACADI REALTY TRUST
"MEGHAN KRUGER"
25-27 EAST 61TH STREET
NEW YORK, NY 10013
212-324-1255

ISAAC & COMPANY
25-27 EAST 61TH STREET
NEW YORK, NY 10013

OFFICE OF THE CITY CLERKS
"DAMARIS B. ACOSTA"
141 WORTH STREET
NEW YORK, NY 10013
212-669-8094

Office of the General Counsel
"Richard T. Cambosos"
Room 1016-E-12
US GAO: 441 "G" Street NW
Washington D.C. 20548
(202)275-5544

Office of the State Inspector general
Empire State plaza
Agency Building 2-16th floor
Albany, New York 12223
800-do-right
Jerold E. Levine
5 sunrise plaza
Valley stream, NY 11580

Ungararo and Cifuni
291 Broadway #1400
NYC, NY
212-766-5800
Sandra D. Parker
444 Madison Avenue #502
NYC, NY 212-317-2883

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICE
"OFFICE OF GENERAL COUNSEL"
ATTN: RECORDS ACCESS OFFICER"
ONE STATE STREET 20TH FLOOR
NEW YORK, NY 10004

BRICK CAPITAL GROUP
212-645-2432

STEVE FRIEDMAN & ASSOICATES
212-864-2662
P.R. AND EDITORIALS

DBF COLLECTIONS CORP
516-295-4636

INSPECTOR GERNENAL OFFICE
61 BROADWAY
NEW YORK, NY 10006
212-635-3150

NEW YORK STATE ATTORNEY GENERAL
"THE CAPITAL BUILDING"
ALBANY, NY 12224-0341
518-776-2000

BRITISH HIGH COMMISSION
445 PARK AVENUE
NEW YORK, NY
10002
212-745-0200

WESTLAW REFERENCE ATTORNEY
800-733-2889

PERMANENT MISSION OF TOGOS
112 EAST 40TH
NEW YORK, NY
10016
212490-3455

AMERICA LEGAL SEARCH
100 PARK AVENUE #16
NEW YORK, NY 10017
212-883-8990

DAUNE IGBAL
1322 BEDFORD
BROOKLYN, NY
718-783-3549X319

FEDERAL TRADE COMMISSION
600 PENN AVENUE NW
WASHINGTON, D.C. 20580

HON. CHARLES FLANAGEN
152 GENESEE STREET
AUBURN, NY

STATE COMPTROLLERS
"NICOLE JACOBY"
1 CENTRE/ 1 MUNICIPLE STREET
18th floor
NEW YORK, NY
212-669-3192

AMERICA WORKS
"MATTHEW SILVERSTEIN"
228 EAST 45TH STREET 16TH FLOOR
NEW YORK, NY 10017
212-599-5627X154

ABC CAPITAL CORP.
17914 UNIONTURN PIKE
FLUSHING, NY 11366
718-380-7373

VIRGINIA & AMBINDER
40 BROAD STREET
NEW YORK, NY
1844-689-2437

Whistleblower Against Fraud
866-973- fraud

Department of Justice
‘Office of information Policy’
Melanie Ann Pustay
202-514-3642

DoD Open Government
Senior FOIL request Advisor
“Aaron Graves”
Washington, D.C.
866-574-4970

Defendant

JP MORGAN CHASE
"ROSA GUMATAOTAO"
270 PARK AVENUE
NEW YORK, NY

US CUSTOMS AND BORDER PROTECTIONS
"MRS. JAYSON P. AHERN"
332 S. SHEPHERD DR. #1200
HOUSTON, TX 77756

FEDERAL RESERVE BANK
"JANET YELLEN"
33 LIBERTY STREET
NEW YORK, NY 10045

INTERNATIONAL MONETARY FUNDS
"DEBT RECONCILIATION UNIT"
"MOGEN LYKKETOFT"
700 19TH STREET NW
WASHINGTON, D.C. 20431

HSBC BANK
250 PARK AVENUE
"MR. LARRY JACKSON"
299-616-4285

DEPARTMENT OF STATE
123 WILLIAMS
NEW YORK, NY

FEDERAL BUREAU OF INVESTIGATION
26 FEDERAL PLAZA
NEW YORK, NY

BUREAU OF FISCAL SERVICE
200 3RD STREET
PARKERBURG W VIRGINIA 26106
202-874 8340

Include these...

Long Island Power Authority
333 Earle Ovington Blvd
Suite #403
Uniondale, NY 11553
"Will Funk"

New York State of Finance
"Denis Britvan"
Thruway Authority
200 Southern Boulevard
Albany, New York

New York State Thruway
Authority
P.O. Box 189
Albany, New York 12201-0189
"Kelvin Allen"

Consumer Affair
40 Broad
New York, NY
"Brenda Greene"

Michelle Obama
"First Lady of US" Ave
1600 Pennsylvania NW
Washington DC 20500
(202) 456-1111

BUFFALO FISCAL STABILITY AUTHORITY
"JANETTE MONGOLD"
617 MAIN STREET #400
BUFFALO, NY 14203
718-853-0907

DEPARTMENT OF SOCIAL SECURITY
123 WILLIAMS
NEW YORK, NY

DEPARTMENT OF EDUCATION
400 MARYLAND AVENUE SW
WASHINGTON, D.C. 20202

BANK OF AMERICA
115 WEST 42ND STREET
NEW YORK, NY 10035
212-764-0694

BARCLAY BANK
200 PARK AVENUE
NEW YORK, NY
10166
44-0-20-7116-1000

CONSULATE GENERAL OF NIGERIA
828 2ND AVENUE
NEW YORK, NY 10017
212-808-0301

CONSULATE GENERAL OF GHANA
19 EAST 47TH STREET
NEW YORK, NY 10017
212-833-1300

NYC DEPARTMENT OF HOMELESS
33 BEAVER STREET
NEW YORK, NY 10004
800-994 6494

Republican National Committee
310 1st Street SE
Washington DC 20003
(202) 863-8500

State of New York
Executive Department
Division of Human Rights
55 Hanson Place
Room 304
Brooklyn, NY 11217

PERMANENT MISSION OF THE REPUBLIC OF BENIN
125 EAST 38TH STREET
NEW YORK, NY 10016
212-684-1339

BENIN EMBASSY
45 WEST 34 STREET NEW YORK, NY 10001

FEDERAL REGISTRY
"MATT REESE"
202-803-8087

NY EDC
110 WILLIAMS STREET 4TH FLOOR
NEW YORK, NY 10038
212-312-3969

US Army
Ronald P. Diehl
2175 Reilly Road Stop A;
Fort Braggs, NC 28310
(910)907-3642 or 432-7829

The **complaint** is being filed under the article 15(a) of the state of New York. The collection of articles by: the NYS and United States anti-trust act by Clayton and Sherman act. It is to dissolve the human trafficking and espionage of domestic and international agency and the assistants. The United States Code title 22 foreign relations and intercourse have finding in section 261-262p-9. Title 18 holds the grounds for equipment and my demand to retrieve, hold, and enjoy my estate by bequest. Under the superior tactic by government and in wartime I find the need to assemble for the arrest and capture illicit business villains, supervillains and copycat criminals the surrounds my identity. The NYS laws under the executive, Penal, and general laws send me to find higher grounds. The borderline and positive misrepresentation by police, attorneys, and District attorneys leave me on guard and without assistants. I finding no remedies to this outcome as the situation grow and grow over a five to six period life. The current changes and development within the state over the past 10 has lead way to blockbusting and steering in the numerous dimensions. USC sec. 282a-f, and also 283 a-k (b), along with chapter 2-5 of 283; 6(b); to 283(ff).

Title 18 under parts 4 &5 bring conflict into the money and finance open market and the reconstruction of the economic environment. In subtitles 5 or V the use of administration equipment is discussed for the government and public use. Public law 114 provides addition tool, forecast, and protection for my consumer right. BY develop in back office conversion has led to most investigation for illicit activates, and the alienation on going outside, and within financial institution of transfer goods and service. The ideal of providing the opportunity has been greater the demand to close or find the fault of the parties involved of at large. The current studies or daily business of the District attorney's office and the state comptroller are involved toxic in my situation and the development for instruction, in 262p-2 and; p-4(L) begin to see the areas to be discussed and the opportunity to find evidence to my claim or my protest! I found IRS form 990 to file my claim and never to abandon my family's' name before or after death. USC title 26 includes the tax and other information for compliance. In title 18 Crimes and Criminal procedures I can find my responsibilities with state law being challenged and threaten by social or boycott groups. Title 18 has my concerns on general provision and enforcements option to be applied. As I request assistant I also have title 28 Judiciary and judicial procedures for the support of the local law enforcement agencies available at the public and the registered officer's fingertips. The title parts hold key topics areas and the rights of privacy to me! Under title 29-labor I find the use of tools and product available again to myself.

I have filed complaints the department of finance services as: BKC-1099036; BKC-2015-1098057; BKC-2015-1099823; BKC-2015-1097935; BKC-2015-1097930; BKC-2015-1097941. As I can summit to provide for addition FOIL request and federal trade commission compliance, for no avail inside the consumer market or the advertised world? As I believe the extortion and blackmail tactic have increase the vision of the public go helpless or blind to any action to be taken as I complaint for myself.

The office of the state Inspector General has made clear to one or both of us the tools and use of power needed with these areas of business and foreign relationship. The areas of title 41 chapter two has the ideals of common law and the use of private citizens to deputize and promote to high General status within the government and law enforcement and the District attorney has played a Public relations game with mind of me as the community leader not arms of the law. In title 40: I find public property and administrative service again at my fingertips for the use. For which "the Freedom of information a Laws and act". I cannot allow for the discussion of the arrangement to suit private government need as a criminal or terrorist villain with but without the law enforcement of the community in which I am from yet live. Title 22 under section 262p-1; again hold my attention for the grassroots collaboration program that I need to request the Inspector general to assign me an internship for to study and comply with the legal or future trail process. The actions by the county are the down fall or whirlpool of criminal activates not legal government actions. The Country as not ideal within common citizen or patriots to imitate of the discussion to facilitate debt for the development swap by section 262 p-4g Opposition and the 262p-4r use of authority of US executive directors. I seek to reform of the do business reports of the World Bank. This is an investigation and a criminal matter. I seek to find the terrorist and the human traffickers at large and bring them to justice or to the highs extents of the law. The demand for the mental hygiene of society are required and the ghost of good people to leave for the stupidity of the honest neighbors I do not have to find the legal representation without law suit or the blackmail of bait and switch marketing or banking tools.

New York Code, Rules and regulation under title 9; subtitle A; part 14; chapter 2; section 14.1 and part 13; section 13.2 has my work on the table and the need and demand for action. If this action were not seen then why is it allowed within the government eyes for the abandonment use of the funds? As title 2; chapter 1, and all part has the review and appraisal of the activities for the domestic and international use of equipment and discoveries within banking and government? My problems grow and the government flees the scene! The area of 50 USC 1803(a) Section 103(a) Foreign intelligence surveillance act of 1978; is lead the way in the act of fraud and a cash cow for ignorance within government and politics. The combating of terrorism under USC 8 section 1534 and removal hearing and federal criminal code and rules for US supreme court has the beneficiary (myself) in the credit and financial war unseen but seem as the abandon property and it is the frighten friend of America Lie!

USC title 12 Chapter 2 subchapters 12: Voluntary Dissolution is my complaint and the Section 181 under title 12 is my request for examination and the appointment and removal of liquidating agent! The contemplation of insolvency is the Complaint under Clayton and Sherman FTC: USC and NYS. Under 15 USC 41- transfer and function I am childish to see the foreseen act of completion of task or activates. My 17 amendment revenue Act of 1913. Is the oldest but latest form of great depression I can bring up for review? The US safe web Act at the second session are my greatest concerns in the government involvement within my life as I feel unguarded by the survival of 1960s activist and the hate groups that wish to see the nonviolent action as the poor salvation of the African America man! In the section of 1 & 2 of the Safe web act the most important are the foreign law enforcement agency defined and the availability of (3) remedies. Section 5(a) of the FTC act; 15 USC 45(a) under sec. 4(a) unfair or deception acts.

(i) injury

(ii) material conduct

(iii) B all remedies available

Section 4 Power of the consumer

(j) Investigation assistance for foreign law enforcement agencies

(b) When acting to investigate or pursue the enforcement of civil laws or attorney general.

As also...

The Inspector General Act amendment of 1988 as to lead me to OIG audit and evaluation.

Remedies

My only remedy is to engage in legal pursuit and criminal pursuit of all at large. I see the supreme and United states district courts involvement of the activities of myself in the bonding and protection of the Public law 114-1[HK/II 26]. The arming and disarming of all agencies involved to find the action and the complaint to be hear by their peers. The examination of business risk, mitigation and price. The register agency and broker to be heal liable. That all that fail to meet world banking remittance and the Standards of fiscal procedures allowed under title 4 subchapter E authority of 31 USC 711 and 3511 by it source one as 50 FR 49505-01. Title 22 Chapter 7; section 276c-2 employee benefits for US citizens –representative to international financial institutions: Treasury department as collection, accountant, and depositor from appropriated F.

Title 48 chapter: 8(a); 9; 13; 16; 17; and 18. Title: 47 under telecommunication. Title 40: public property and Administrative services; subtitle I under chapters: 1; 3; 5; 7; 8; 9; 10; 11 & 13 Subtitle II: Chapter 51 (part B) federal building complexes, chapter 61; 62; and 65. Part D under chapters also 91Title 9 Chapter 1-3: A; B; 2 Inter-American conventions on international commercial arbitration chapters 2&3 section 201-206 and 301-307

Title 26 Internal Revenue Code subtitle B and subtitle D and the title of 44 and 50 for the section F: procedure and Administration areas od 64; 65; 66; 68; 69; 70; 71; 72; 73; 74; 75; 76; and ;78. Subtitle H financing of Presidential election campaign; subtitle I: trust funds code

All of title 18: Crimes and criminal; procedure see part I; under chapter 1; 7; 9; 10; 11; 11(a); 11(b); 12 13 and 15

Chapter 17; 18; 19; 21; 23; 25; 26; 27; 29; 31; 33; 35; 37; 39; 41; 42; 43; 44; 45; 46;

Title 29-Labor chapter 1-12 and 14; Chapter 22-26 and Chapter 28-31. Title 31- Money and Finance chapter 1; 3; 5; 7; and 9. Subchapter I and Subtitle @ budget process. Chapter 11; 13; and 15 subtitle # financial management. And subtitle \$ Money chapter 51 and 53.

Title 28 part 1: organization of court Chapter: 7; 9; 11; 13; 15; 16; 17; 19; 21; 23; and part @ Department of Justice Chapter 31-40 and 40(a). Part # court officers and employees: Chapter 41-58 Administration officer of Untied States Courts.

Title 18 Chapter: 47; 49; 51; 61; 65; 67; and 68.

Chapter: 73; 77; 79; 81; Privacy and privateering!

Chapter: 89;90; 93; 95; 96; 101; 105; 109; 109(a); 113; 113(b); and 117

Part # Chapter 301; 303; 305; 306; 307; 309; 311; 313; 315; 317 or both 319.

Title 22 section 2832-6(b) and 283 a-9(c) and 283 (ff)

282 A-E with includes of F and the 283 A-K and 283(m0m

276(AA) Establishment of the Kermit Roosevelt fund and the creation and composition of the board of trustee 276(bb).

274(B0 with section A &B; 275 and 275(a) international hydrographic Bureau and the permanent international commission of the congress of Navigation: Authorization of appropriations

274- International council of Scientific Unions and associated Union, Authorization of annual appropriation for membership; 274(a) International biological programs (A) congressional findings. (B) Congressional support (C) priority?

272 (omitted) 272(a) Pan American institute of geography and industry authorization of annual appropriation for membership.

262 p-2 International to US executive director for extension of credit part B African Development bank and Asian Development Bank; provision of credit to microenterprises are of 2 explore ways.

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262p-l-4: indigenous people in borrowing countries determination of impact: protection of rights consultation.

262p-9: reform of the "do Business" report of the World Bank and continues to addition work under 262 p-10 an 11.

All these and more remedies that are given and explained within the Whistleblower protection enhancement act.

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Fraudulent Misrepresentation

1 Elements and Case Citations

[I]n a claim for fraudulent misrepresentation, a plaintiff must allege

1. "a misrepresentation or a material omission of fact
2. which was false and known to be false by defendant,
3. made for the purpose of inducing the other party to rely upon it,
4. justifiable reliance of the other party on the misrepresentation or material omission, []
5. injury," and
6. damages.

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"[W]here a cause of action is based in fraud, 'the circumstances constituting the wrong shall be stated in detail.'" *Id.*

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Court of Appeals of New York: *Mandarin Trading Ltd. v. Wildenstein*, 16 N.Y.3d 173, 178 (2011).

Supreme Court, Appellate Division, 1st Department: *VisionChina Media Inc. v. Shareholder Representative Servs., LLC*, 109 A.D.3d 49, 57(1st Dep't 2013).

Supreme Court, Appellate Division, 2d Department: *High Tides, LLC v. DeMichele*, 88 A.D.3d 954, 957 (2d Dep't 2011).

Supreme Court, Appellate Division, 3d Department: *McColgan v. Brewer*, — A.D.3d —, ___, No. 516485, 2013 N.Y. App. Div. LEXIS 8450, at *3, 2013 N.Y. Slip Op. 8492, at **2 (3d Dep't Dec. 19, 2013).

Supreme Court, Appellate Division, 4th Department: None.

NEW YORK FEDERAL COURTS

United States Court of Appeals, 2d Circuit: *Newman v. Family Mgmt. Corp.*, 530 Fed. Appx. 21, 24 (2d Cir. 2013).

Eastern District: *Smith v. Am. Sec. Ins. Co.*, No. 13-CV-6328(JS) (ARL), 2013 U.S. Dist. LEXIS 176444, at *4-5(E.D.N.Y. Dec. 16, 2013).

Northern District: *Nuss v. Sabad*, No. 7:10-CV-0279 (LEK/TWD), 2013 U.S. Dist. LEXIS 141217, at *39(N.D.N.Y. Sept. 30, 2013).

Southern District: *Haining Zhang v. Schlatter*, No. 12 Civ. 1793 (ALC) (GWG), 2013 U.S. Dist. LEXIS 138968, at *29 (S.D.N.Y. Mar. 13, 2013).

Western District: *Lamb v. Money Transfer Sys.*, No. 12-CV-6584 CJS, 2013 U.S. Dist. LEXIS 132007, at *42-43 (W.D.N.Y. Sept. 16, 2013).

2 Defenses to Claim for Fraudulent Misrepresentation

(1) **CPLR § 3018(b)** (pleading affirmative defenses), and other standard defenses. See Chapter 1 for all defenses.

(2) **Statute of Limitations:** N.Y. C.P.L.R. § 213(8) (the greater of six years from the date the cause of action accrued or two years from the time the plaintiff or the person under whom the plaintiff claims discovered the fraud, or could with reasonable diligence have discovered it); *Yatter v. William Morris Agency, Inc.*, 268 A.D.2d 335, 335 (1st Dep't 2000).

(3) **Opinion:** A cause of action for fraudulent misrepresentation cannot be based on opinion. *Mandarin Trading Ltd. v. Wildenstein*, 16 N.Y.3d 173, 179 (2011).

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(4) **Parol Evidence:** "Consideration of parol evidence as to fraudulent misrepresentations is permissible despite the presence of a merger clause in a contract." *Midorimatsu, Inc. v Hui Fat Co.*, 99 A.D.3d 680, 682 (2d Cir. 2012).

(5) **In Pari Delicto:** "The doctrine of in pari delicto mandates that the courts will not intercede to resolve a dispute between two wrongdoers." *Kirschner v. KPMG LLP*, 15 N.Y.3d 446, 464 (2010).

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NY Code – Executive Law - Article 15-A: PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS

- Section 310 – Definitions
- Section 311 – Division of minority and women's business development
- Section 311-A – Minority and women-owned business enterprise statewide advocate
- Section 312 – Equal employment opportunities for minority group members and women
- Section 312-A – Study of minority and women-owned business enterprise programs
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NY Code – Executive Law - Article 15-A, Section 310: Definitions

As used in this article, the following terms shall have the following meanings:

1. "Certified business" shall mean a business verified as a minority or women-owned business enterprise pursuant to section three hundred fourteen of this article.
2. "Contracting agency" shall mean a state agency which is a party or a proposed party to a state contract or, in the case of a state contract described in paragraph (c) of subdivision thirteen of this section, shall mean the New York state housing finance agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.
3. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.
4. "Director" shall mean the director of the division of minority and women's business development in the department of economic development.
5. "Large county" shall mean a county having a population in excess of two hundred eighty-five thousand according to the most recent federal decennial census, provided however, that a county having a population in excess of two hundred eighty-five thousand according to the nineteen hundred eighty federal decennial census shall continue to be a large county thereafter notwithstanding a later census showing a population of less than two hundred eighty-five thousand for such county.
6. "Metropolitan area" shall mean a city with a population of one million or more and a county having a population in excess of one million and immediately contiguous to such city.
7. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

- (a) at least fifty-one percent owned by one or more minority group members;
- (b) an enterprise in which such minority ownership is real, substantial and continuing;
- (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- (d) an enterprise authorized to do business in this state and independently owned and operated.

8. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America.
- (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

9. "Utilization plan" shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. The utilization plan shall identify certified minority or women-owned business enterprises, if known, that have committed to perform work in connection with the proposed state contract as well as any such enterprises, if known, which the contractor intends to use in connection with the contractor's performance of the proposed state contract. The plan shall specifically contain a list, including the name, address and telephone number, of each certified enterprise with which the contractor intends to subcontract.

10. "Office" shall mean the division of minority and women's business development in the department of economic development.

11. "State agency" shall mean

- (a) (i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law;

(b) the following:

- Albany County Airport Authority;
- Albany Port District Commission;
- Alfred, Almond, Hornellsville Sewer Authority;
- Battery Park City Authority;

Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;
Industrial Exhibit Authority;
Livingston County Water and Sewer Authority;
Long Island Power Authority;
Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority;
Metro-North Commuter Railroad;
Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;
New York Convention Center Operating Corporation;
New York State Bridge Authority;
New York State Olympic Regional Development Authority;
New York State Thruway Authority;
Niagara Falls Public Water Authority;
Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;
Triborough Bridge and Tunnel Authority.
Upper Mohawk valley regional water board.
Upper Mohawk valley regional water finance authority.
Upper Mohawk valley memorial auditorium authority.
Urban Development Corporation and its subsidiary corporations.

(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:

Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

12. "State assisted housing project" shall mean, for such projects which receive from the New York state housing finance agency, the affordable housing corporation, the housing trust fund corporation or the division of housing and community renewal a grant or loan for all or part of the total project cost:

- (a) a "permanent housing project for homeless families" or "project" as defined in subdivision five of section sixty-four of the private housing finance law;
- (b) a "project" as defined in subdivision twelve of section one thousand one hundred one of the private housing finance law provided said project is located in a large county and consists of more than twelve residential units at a single site;
- (c) "affordable home ownership development programs" or "project" as defined in subdivision eight of section one thousand one hundred eleven of the private housing finance law provided said project is located in a metropolitan area as herein defined and consists of more than twelve residential units at a single site;
- (d) a "turnkey/enhanced rental project" or "project" as defined in subdivision two of section one thousand one hundred six-a of the private housing finance law;
- (e) "infrastructure improvements" as defined in subdivision two of section one thousand one hundred thirty-one of the private housing finance law, to the extent that such "infrastructure improvements" are applied for in connection with a state assisted housing project as defined in paragraphs (a) through (d) of this subdivision and provided further that the applicant for such infrastructure improvements and for such state assisted housing project are identical.

13. "State contract" shall mean:

- (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency;
- (b) a written agreement in excess of one hundred thousand dollars whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and
- (c) a written agreement in excess of one hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

For the purposes of this article the term "services" shall not include banking relationships, the issuance of insurance policies or contracts, or contracts with a contracting agency for the sale of bonds, notes or other securities.

14. "Subcontract" shall mean an agreement providing for a total expenditure in excess of twenty-five thousand dollars for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed, but shall not include any

construction, demolition, replacement, major repair, renovation, planning or design of real property or improvements thereon for the beneficial use of the contractor.

15. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

- (a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
- (b) an enterprise in which the ownership interest of such women is real, substantial and continuing;
- (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- (d) an enterprise authorized to do business in this state and independently owned and operated.

16. "Statewide advocate" shall mean the person appointed by the commissioner to serve in the capacity of the minority and women-owned business enterprise statewide advocate.

17. "Commissioner" shall mean the commissioner of the department of economic development.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 311: Division of minority and women's business development

1. The head of the division of minority and women's business development shall be the director who shall be appointed by the governor and hold office at the pleasure of the commissioner. It shall be the duty of the director of the division of minority and women's business development to assist the governor in the formulation and implementation of laws and policies relating to minority and women-owned business enterprises.

2. The director may appoint such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein subject to the provisions of the civil service law and the rules and regulations of the civil service commission. The director may request and shall receive from any department, division, board, bureau, executive commission or agency of the state such assistance as may be necessary to carry out the provisions of this article.

3. The director shall have the following powers and duties:

- (a) to encourage and assist contracting agencies in their efforts to increase participation by minority and women-owned business enterprises on state contracts and subcontracts so as to facilitate the award of a fair share of such contracts to them;
- (b) to develop standardized forms and reporting documents necessary to implement this article;
- (c) to conduct educational programs consistent with the purposes of this article;

(d) to review periodically the practices and procedures of each contracting agency with respect to compliance with the provisions of this article, and to require them to file periodic reports with the division of minority and women's business development as to the level of minority and women-owned business enterprises participation in the awarding of agency contracts for goods and services;

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means committees on the level of minority and women-owned business enterprises participating in each agency's contracts for goods and services and on activities of the office and effort by each contracting agency to promote employment of minority group members and women, and to promote and increase participation by certified businesses with respect to state contracts and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update periodically a directory of certified minority and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services;

(g) to appoint independent hearing officers who by contract or terms of employment shall preside over adjudicatory hearings pursuant to section three hundred fourteen of this article for the office and who are assigned no other work by the office;

(h) notwithstanding the provisions of section two hundred ninety-six of this chapter, to file a complaint pursuant to the provisions of section two hundred ninety-seven of this chapter where the director has knowledge that a contractor may have violated the provisions of paragraph (a), (b) or (c) of subdivision one of section two hundred ninety-six of this chapter where such violation is unrelated, separate or distinct from the state contract as expressed by its terms; and

(i) to streamline the state certification process to accept federal and municipal corporation certifications.

4. The director may provide assistance to, and facilitate access to programs serving certified businesses as well as applicants to ensure that such businesses benefit, as needed, from technical, managerial and financial, and general business assistance; training; marketing; organization and personnel skill development; project management assistance; technology assistance; bond and insurance education assistance; and other business development assistance. In addition, the director may, either independently or in conjunction with other state agencies:

(a) develop a clearinghouse of information on programs and services provided by entities that may assist such businesses;

(b) review bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of such businesses to compete; and

(c) seek to maximize utilization by minority and women-owned business enterprises of available federal resources including but not limited to federal grants, loans, loan guarantees, surety bonding guarantees, technical assistance, and programs and services of the federal small business administration.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 311-A: Minority and women-owned business enterprise statewide advocate

1. There is hereby established within the department of economic development an office of the minority and women-owned business enterprise statewide advocate. The statewide advocate shall be appointed by the commissioner with the advice of the small business advisory board as established in section one hundred thirty-three of the economic development law and shall serve in the unclassified service of the director. The statewide advocate shall be located in the Albany empire state development office.

2. The advocate shall act as a liaison for minority and women-owned business enterprises (MWBEs) to assist them in obtaining technical, managerial, financial and other business assistance for certified businesses and applicants. The advocate shall investigate complaints brought by or on behalf of MWBEs concerning certification delays and instances of violations of law by state agencies. The statewide advocate shall assist certified businesses and applicants in the certification process. Other functions of the statewide advocate shall be directed by the commissioner. The advocate may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide advocate.

3. The statewide advocate shall establish a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process.

4. The statewide advocate shall report to the director and commissioner by November fifteenth on an annual basis on all activities related to fulfilling the obligations of the office of the statewide advocate. The commissioner shall include the unedited text of the statewide advocate's report within the reports submitted by the department of economic development to the governor and the legislature.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 312: Equal employment opportunities for minority group members and women

1. All state contracts and all documents soliciting bids or proposals for state contracts shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this article affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.

(c) The contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the state contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

2. The contractor will include the provisions of subdivision one of this section in every subcontract, except as provided in subdivision six of this section, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the state contract.

3. The provisions of this section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the state contract as expressed by its terms.

4. In the implementation of this section, the contracting agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. The director shall promulgate rules and regulations to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this section. Such rules and regulations as they pertain to any particular agency shall be developed after consultation with contracting agencies. Such rules and regulations may require a contractor, after notice in a bid solicitation, to submit an equal employment opportunity program after bid opening and prior to the award of any contract, and may require the contractor or subcontractor to submit compliance reports relating to the contractor's or subcontractor's operation and implementation of any equal employment opportunity program in effect as of the date the contract is executed. The contracting agency may recommend to the director that the director take appropriate action according to the procedures set forth in

section three hundred sixteen of this article against the contractor for noncompliance with the requirements of this section. The contracting agency shall be responsible for monitoring compliance with this section.

6. The requirements of this section shall not apply to any employment outside this state or application for employment outside this state or solicitations or advertisements therefor, or any existing programs of affirmative action regarding employment outside this state and the effect of contract provisions required by subdivision one of this section shall be so limited.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 313: Opportunities for minority and women-owned business enterprises

1. The director shall promulgate rules and regulations that provide measures and procedures to ensure that certified businesses shall be given the opportunity for meaningful participation in the performance of state contracts and to identify those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the award of a fair share of state contracts to such businesses. Such rules and regulations as they pertain to any particular agency shall be developed after consultation with the contracting agency. Nothing in the provisions of this article shall be construed to limit the ability of any certified business to bid on any contract.

2. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to:

(a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses provided to the contracting agency by the office;

(b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and

(c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) above in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

3. In the implementation of this section, the contracting agency shall consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency

shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

4. (a) Contracting agencies shall administer the rules and regulations promulgated by the director to ensure compliance with the provisions of this section. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; may require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions five and six of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision seven of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision eight of this section in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final

administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

5. Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises located in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

6. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event,

(i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether there has been written notification to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

7. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision five of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

8. If, after the review of a contractor's minority and women owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 314: Statewide certification program

1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification. Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law.

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members or women and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically update the directory.

2-a. (a) The director shall establish a procedure enabling the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. All eligible municipal corporation

certifications shall require business enterprises seeking certification to meet the following standards:

- (i) have at least fifty-one percent ownership by a minority or a women-owned enterprise and be owned by United States citizens or permanent resident aliens;
- (ii) be an enterprise in which the minority and/or women-ownership interest is real, substantial and continuing;
- (iii) be an enterprise in which the minority and/or women-ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
- (iv) be an enterprise authorized to do business in this state; and
- (v) be subject to a physical site inspection to verify the fifty-one percent ownership requirement.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards.

(c) The director shall establish a procedure enabling the division to accept federal certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of federal certification.

3. Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies, within thirty days. Within sixty days of submission of a final completed application, the director shall provide the applicant with written notice of a determination by the office approving or denying such certification and, in the event of a denial a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

4. All certifications shall be valid for a period of three years.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 315: Responsibilities of contracting agencies

1. Each contracting agency shall be responsible for monitoring state contracts under its jurisdiction, and recommending matters to the office respecting non-compliance with the provisions of this article so that the office may take such action as is appropriate to insure compliance with the provisions of this article, the rules and regulations of the director issued hereunder and the contractual provisions required pursuant to this article. All contracting agencies shall comply with the rules and regulations of the office and are directed to cooperate with the office and to furnish to the office such information and assistance as may be required in the performance of its functions under this article.

2. Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.

3. Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted periodically as required by the director.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 316: Enforcement

Upon receipt by the director of a complaint by a contracting agency that a contractor has violated the provisions of a state contract which have been included to comply with the provisions of this article or of a contractor that a contracting agency has violated such provisions or has failed or refused to issue a waiver where one has been applied for pursuant to subdivision five of section three hundred thirteen of this article or has denied such application, the director shall attempt to resolve the matter giving rise to such complaint. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the director shall refer the matter, within thirty days of the receipt of the complaint, to the American Arbitration Association for proceeding thereon. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the director his or her award regarding the alleged violation of the contract and recommendations regarding the imposition of sanctions, fines or penalties. The director shall either:

- (a) adopt the recommendation of the arbitrator; or
- (b) determine that no sanctions, fines or penalties should be imposed; or

(c) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty.

The director, within ten days of receipt of the arbitrator's award and recommendations, shall file a determination of such matter and shall cause a copy of such determination along with a copy of this article to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator shall be final and may only be vacated or modified as provided in article seventy-five of the civil practice law and rules upon an application made within the time provided by section seventy-five hundred eleven of the civil practice law and rules. The determination of the director as to the imposition of any fines, sanctions or penalties shall be reviewable pursuant to article seventy-eight of the civil practice law and rules.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 317: Superseding effect of article with respect to state law

The provisions of this article shall supersede any other provision of state law, which expressly implements or mandates an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises, concerning action to be taken by any party to a state contract, to which the provisions of this article apply; provided, however, that the provisions of any state law, not as hereinabove superseded, which expressly implement or mandate such programs shall remain unimpaired by the provisions of this article, except that the provisions of any such law shall be construed as if the provisions of subdivisions five, six, seven and eight of section three hundred thirteen and section three hundred sixteen of this article were fully set forth therein and made applicable only to complaints of violations under such provisions of law occurring on or after September first, nineteen hundred eighty-eight; provided, further, that nothing contained in this article shall be construed to limit, impair, or otherwise restrict any state agency's authority or discretionary power in effect prior to the enactment of this article to establish or continue, by rule, regulation or resolution, an equal opportunity program or a program for securing participation of minority and women-owned business enterprises with regard to banking relationships, the issuance of insurance policies or contracts for the sale of bonds, notes or other securities; and, provided further, that nothing contained in the immediately preceding proviso shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any agency's authority or discretionary power with respect to an equal opportunity program or a program for securing participation of minority and women-owned enterprises.

* NB Expires December 31, 2018

NY Code – Executive Law - Article 15-A, Section 318: Severability

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the

remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

* NB Expires December 31, 2018